

Internal Revenue Service

District Director  
31 Hopkins Plaza  
Baltimore, MD 21201

Date: JAN 13 1999

Department of the Treasury  
Southeast Key District(EP/EO)

PERSON TO CONTACT:

CONTACT TELEPHONE NUMBER:

IN REPLY REFER TO:

CERTIFIED MAIL

Dear Sir or Madam:

We have considered your application for recognition or exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code and have determined that you do not qualify for tax exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

The description of activities contained in Article Two of the Articles of Incorporation, which states, "This corporation is a nonprofit religious corporation and is not organized for the gain of any private person. It is organized under the Nonprofit Religious Corporation Law primarily for religious purposes. The specific purposes for which this corporation as organized are to further the usage of computer and network technology in the Christian community by providing some combination of training and education, consulting services, equipment acquisition assistance, network access and software".

To accomplish this [REDACTED] intends to provide:  
Internet Services such as:

- Internet access and
- World-wide Web content development

Training, such as:

- Seminars
- Technical expertise and project management guidelines
- Offer apprentice positions in technical jobs
- Financial assistance to organizations

These activities will be supported through the following fundraising activities:

1. Applying for grants.
2. Solicit contributions and donations
3. Revenues from running an Internet Service Provider (ISP) business unit
4. Revenues from consulting services rendered to the public
5. Revenues from the sale of logo'd items
6. Revenues from the resale of computers and network equipment
7. Revenues from the sale of software and graphics

Fundraising activities 3 through 7 above are unrelated trade or business activities, which do not further the exempt purposes of the organization, except to generate revenue. These activities are in direct competition with a variety of for profit businesses in the ISP, consulting and retail/resale business.

[REDACTED] intends to use the profits derived from the sale of Internet services, at fair market prices, through its Internet Service Provider (ISP) business unit to subsidize its educational and consulting activities. You have estimated that the organization is currently devoting [REDACTED] of its time to developing the [REDACTED], and [REDACTED] working with local Christian organizations.

The expected time allocations for the future are [REDACTED] % or less on ISP activities, [REDACTED] to fundraising and [REDACTED] to evangelism.

The seminars, workshops and training sessions, while targeted to Christian groups and individuals, is not in and of itself religious or evangelistic in nature.

Based on the information contained in Form 1023 and your letter received [REDACTED], the revenue generated by your activities will come primarily from contributions from the [REDACTED] and from the operation of the ISP business unit.

Revenue was reported as follows:

Source of Income	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Totals
Contributions - Operating *	\$3 [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	0	\$ [REDACTED]
Contributions - Mission **	0	0	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
ISP Income	0	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Misc. Income	0	\$ [REDACTED]	0	0	\$ [REDACTED]
Total	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

\* Operating Contributions are earmarked for the start up of the corporation; all contributions come from [REDACTED]

\*\* Mission Contributions are donations for the benefit of the community, not the operation of [REDACTED]

Based on these figures, over [REDACTED] % of the total revenue projected for the fiscal years ending [REDACTED] is derived from the operation of an ISP business. As was noted above, the ISP provided Internet services at fair market value. There is nothing to distinguish the ISP operated by [REDACTED] and the various for-profit ISP operators.

In addition to the ISP revenue, nearly [REDACTED] % of the income shown above is derived from contributions made by the two founders of the organization. (see operating contributions)

Code section 513 defines an unrelated trade or business as an activity, which meets the following criteria:

- The activity must be a trade or business;
- The trade or business must be regularly carried on
- The trade or business must not be substantially related to exempt purposes.

A "trade or business" is defined in Code section 513 and 162 as any activity carried on for the production of income from the sale of goods or performance of services. Income Tax Regulations (Regs.) 1.513-1(b) addresses this by stating that these activities do not lose the identity as a trade or business merely because they are carried out along with other endeavors which may, or may not be related to the exempt purposes of the organization.

Code section 513(a) defines the term "unrelated trade or business" as "any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational or other purpose or function constituting the basis for its exemption under section 501..."

Regs. 1.513-1(d) defines "substantially related" as an activity that contributes importantly to the accomplishment of the organization's exempt purposes.

Regs. 1.513-1(c)(1) states in part, "specific business activities will be deemed regularly carried on if they manifest a frequency and continuity, and are pursued in a manner generally similar to comparable commercial activities of nonexempt organizations."



Regs. 1.501(c)(3)-1(b)(1)(I) provide that an organization is organized exclusively for one or more exempt purposes only if its articles of organization (a) limit the purposes of such organization to one or more exempt purposes; and (b) do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

In *B.S.W. Group, Inc. v Commissioner*, 70 TC 352, exemption was denied to an organization whose sole activity was to offer consulting services for a fee to non-profit, limited resource organizations. The fees charged will be set at or close to cost, but will in no event be less than the full cost of providing its services. There was nothing to indicate that the organization would not be in competition with commercial enterprises.

Based on the references cited above, the ISP business is the primary activity and the major source of revenue of the organization. This activity is a trade or business, is regularly carried on, and is not substantially related to the purpose for which you are seeking exemption (other than the need for funds). This activity is in direct competition with commercial enterprises. The net profits are to be used to finance the training classes and seminars and consulting services to help other organizations. Since the primary activity of your organization is an unrelated trade or business, you do not qualify for tax exemption under Code section 501(c)(3).

Accordingly, this organization is not exempt from Federal income tax as an organization described in section 501(c)(3).

You are not relieved of the requirement to file Federal income tax returns.

Contributions to your organization are not deductible by donors under section 170(c)(2) of the Code.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, he or she will need to file a power of attorney or tax information authorization with us. If you do not appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination on this matter.

If you do not appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination letter in this matter. Further, if you do not appeal this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust all administrative remedies. Section 7428(b)(2) of the Code provides, in part, that, "A declaratory judgment or decree under this section shall not be issued in any of the proceeding unless the Tax Court, U.S. Court of Claims or District Court of the U.S. for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

Appeals submitted which do not contain all the documentation required by Publication 982 will be returned for completion.

Sincerely,

Paul M. Harrington  
District Director

Enclosure: Publication 892